

# House File 276 - Introduced

HOUSE FILE 276

BY HEARTSILL and HEDDENS

## A BILL FOR

1 An Act relating to child in need of assistance and child abuse  
2 cases involving certain drugs and other substances.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, subsection 6, paragraph p, Code  
2 2017, is amended to read as follows:

3 p. Who is a drug-endangered child.

4 (1) ~~Whose~~ For the purposes of this paragraph,  
5 "drug-endangered child" means a child whose parent, guardian,  
6 ~~or~~ custodian, or other adult member of the household in which  
7 a child resides does any of the following: unlawfully uses,  
8 possesses, manufactures, cultivates, or distributes a dangerous  
9 substance in the presence of a child; or knowingly allows such  
10 use, possession, manufacture, cultivation, or distribution by  
11 another person in the presence of a child; ~~or in the presence~~  
12 ~~of a child possesses a product containing ephedrine, its salts,~~  
13 ~~optical isomers, salts of optical isomers, or pseudoephedrine,~~  
14 ~~its salts, optical isomers, salts of optical isomers,~~ with the  
15 intent to use the product as a precursor or an intermediary to  
16 a dangerous substance in the presence of a child; or unlawfully  
17 uses, possesses, manufactures, cultivates, or distributes a  
18 dangerous substance specified in subparagraph (3), subparagraph  
19 division (a), (b), or (c), in a child's home, on the premises,  
20 or in a motor vehicle located on the premises.

21 ~~{1}~~ (2) For the purposes of this paragraph, "in the  
22 presence of a child" means in the physical presence of a child  
23 ~~during the manufacture or possession, the manufacture or~~  
24 ~~possession occurred in a child's home, on the premises, or in~~  
25 ~~a motor vehicle located on the premises, or the manufacture~~  
26 ~~or possession occurred~~ or occurring under other circumstances  
27 in which a reasonably prudent person would know that the  
28 use, possession, manufacture ~~or possession,~~ cultivation, or  
29 distribution may be seen, smelled, ingested, or heard by a  
30 child.

31 ~~{2}~~ (3) For the purposes of this paragraph, "dangerous  
32 substance" means any of the following:

33 (a) Amphetamine, its salts, isomers, or salts of its  
34 isomers.

35 (b) Methamphetamine, its salts, isomers, or salts of its

1 isomers.

2 (c) A chemical or combination of chemicals that poses a  
3 reasonable risk of causing an explosion, fire, or other danger  
4 to the life or health of persons who are in the vicinity while  
5 the chemical or combination of chemicals is used or is intended  
6 to be used in any of the following:

7 (i) The process of manufacturing an illegal or controlled  
8 substance.

9 (ii) As a precursor in the manufacturing of an illegal or  
10 controlled substance.

11 (iii) As an intermediary in the manufacturing of an illegal  
12 or controlled substance.

13 (d) Cocaine, its salts, isomers, salts of its isomers, or  
14 derivatives.

15 (e) Heroin, its salts, isomers, salts of its isomers, or  
16 derivatives.

17 (f) Opium and opiate, and any salt, compound, derivative, or  
18 preparation of opium or opiate.

19 Sec. 2. Section 232.68, subsection 2, paragraph a,  
20 subparagraph (7), Code 2017, is amended to read as follows:

21 (7) (a) The acts or omissions of a person responsible  
22 for the care of a child which allow or permit a child to be a  
23 drug-endangered child.

24 (b) The For the purposes of this subparagraph,  
25 "drug-endangered child" means a child in a situation where  
26 the person responsible for the care of a child has, in  
27 the presence of the a child, as defined in section 232.2,  
28 subsection 6, paragraph "p", manufactured unlawfully uses,  
29 possesses, manufactures, cultivates, or distributes a dangerous  
30 substance, as defined in section 232.2, subsection 6, paragraph  
31 "p", or in the presence of the child knowingly allows such  
32 use, possession, manufacture, cultivation, or distribution  
33 by another person in the presence of a child; possesses a  
34 product containing ephedrine, its salts, optical isomers, salts  
35 of optical isomers, or pseudoephedrine, its salts, optical

1 ~~isomers, salts of optical isomers,~~ with the intent to use  
 2 the product as a precursor or an intermediary to a dangerous  
 3 substance in the presence of a child; or unlawfully uses,  
 4 possesses, manufactures, cultivates, or distributes a dangerous  
 5 substance specified in section 232.2, subsection 6, paragraph  
 6 "p", subparagraph (3), subparagraph division (a), (b), or (c),  
 7 in a child's home, on the premises, or in a motor vehicle  
 8 located on the premises.

9 Sec. 3. Section 232.77, subsection 2, Code 2017, is amended  
 10 to read as follows:

11 2. a. If a health practitioner discovers in a child  
 12 physical or behavioral symptoms of the effects of exposure  
 13 to cocaine, heroin, amphetamine, methamphetamine, or other  
 14 illegal drugs, or combinations or derivatives thereof, which  
 15 were not prescribed by a health practitioner, or if the health  
 16 practitioner has determined through examination of the natural  
 17 mother of the child that the child was exposed in utero, the  
 18 health practitioner may perform or cause to be performed a  
 19 medically relevant test, as defined in [section 232.73](#), on the  
 20 child. The practitioner shall report any positive results of  
 21 such a test on the child to the department. The department  
 22 shall begin an assessment pursuant to [section 232.71B](#) upon  
 23 receipt of such a report. A positive test result obtained  
 24 prior to the birth of a child shall not be used for the criminal  
 25 prosecution of a parent for acts and omissions resulting in  
 26 intrauterine exposure of the child to an illegal drug.

27 b. If a health practitioner involved in the delivery or  
 28 care of a newborn or infant discovers in the newborn or infant  
 29 physical or behavioral symptoms that are consistent with the  
 30 effects of prenatal drug exposure or a fetal alcohol spectrum  
 31 disorder, the health practitioner shall report such information  
 32 to the department in a manner prescribed by rule of the  
 33 department.

#### 34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1           the explanation's substance by the members of the general assembly.

2       This bill relates to certain drugs and other substances and  
3 child in need of assistance and child abuse.

4       The bill amends the definition of a child in need of  
5 assistance to provide that an unmarried child who is a  
6 drug-endangered child may be the subject of a child in need of  
7 assistance petition. Drug-endangered child for this purpose  
8 means a child whose parent, guardian, custodian, or other adult  
9 member of the child's household unlawfully uses, possesses,  
10 manufactures, cultivates, or distributes a dangerous substance  
11 in the presence of a child or knowingly allows such activities  
12 by another person in the presence of a child; possesses a  
13 product with the intent to use the product as a precursor or  
14 an intermediary to a dangerous substance in the presence of a  
15 child; or unlawfully uses, possesses, manufactures, cultivates,  
16 or distributes a dangerous substance that is an amphetamine,  
17 a methamphetamine, or a chemical or chemicals that pose a  
18 reasonable risk of causing a fire or explosion in a child's  
19 home, on the premises, or in a motor vehicle located on the  
20 premises.

21       The bill amends the definition of child abuse to include  
22 the acts or omissions of a person responsible for the care of  
23 a child which allow or permit a child to be a drug-endangered  
24 child. A drug-endangered child for this purpose means a child  
25 in a situation where the person responsible for the care of a  
26 child unlawfully uses, possesses, manufactures, cultivates, or  
27 distributes a dangerous substance in the presence of a child  
28 or knowingly allows such activities by another person in the  
29 presence of a child; possesses a product with the intent to use  
30 the product as a precursor or an intermediary to a dangerous  
31 substance in the presence of a child; or unlawfully uses,  
32 possesses, manufactures, cultivates, or distributes a dangerous  
33 substance that is an amphetamine, a methamphetamine, or a  
34 chemical or chemicals that pose a reasonable risk of causing a  
35 fire or explosion in a child's home, on the premises, or in a

1 motor vehicle located on the premises.

2     The bill amends the definitions of "in the presence of a  
3 child" and "dangerous substance" for purposes of both child  
4 in need of assistance and child abuse definitions. "In  
5 the presence of a child" means in the physical presence of  
6 a child or occurring under other circumstances in which a  
7 reasonably prudent person would know that the use, possession,  
8 manufacture, cultivation, or distribution may be seen,  
9 smelled, ingested, or heard by a child. The bill includes  
10 cocaine, heroin, and opium or opiates in the list of dangerous  
11 substances.

12     The bill requires a health practitioner involved in the  
13 delivery or care of a newborn or infant, who discovers in the  
14 newborn or infant physical or behavioral symptoms that are  
15 consistent with the effects of prenatal drug exposure or a  
16 fetal alcohol spectrum disorder, to report such information  
17 to the department of human services in a manner prescribed by  
18 rule of the department. "Health practitioner" is defined in  
19 Code section 232.2 to mean a licensed physician or surgeon,  
20 osteopathic physician or surgeon, dentist, optometrist,  
21 podiatric physician, or chiropractor, a resident or intern  
22 of any such profession, and any registered nurse or licensed  
23 practical nurse. This reporting requirement is required under  
24 the federal Child Abuse Prevention and Treatment Act (CAPTA).